

**BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319**

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**KEVIN C REYNOLDS**

Claimant,

and

**CASEYS MARKETING COMPANY**

Employer.

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**HEARING NUMBER: 11B-UI-09689**

**EMPLOYMENT APPEAL BOARD  
DECISION**

**N O T I C E**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION: 96.5-2-A**

**D E C I S I O N**

**UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE**

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board, one member dissenting, reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

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John A. Peno

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Elizabeth L. Seiser

**DISSENTING OPINION OF MONIQUE F. KUESTER:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the decision of the administrative law judge. I would find that the claimant had a management handbook in his office. (Tr. 19) As assistant manager, the claimant was aware of the employer's policy against taking photos with a cell phone, which is corroborated by his signature in acknowledgement of receipt of that policy. (Exhibit 1-unnumbered pp. 6-7) It is irrelevant that he took the picture in good faith; he intentionally violated a known company rule. The fact that he was part of management makes him more culpable as he is held to a higher standard of compliance. See, Ross v. Iowa State Penitentiary, 376 N.W.2d 642 (Iowa App. 1985). I would deny benefits.

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Monique F. Kuester

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